

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 619

AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-21.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The office of environmental adjudication is established to review, under this article, ~~decisions~~ **agency actions** of the ~~commissioner of the~~ department of environmental management, **actions of a board described in IC 13-14-9-1, and challenges to rulemaking actions by a board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or IC 4-22-2-45.**

(b) The office of environmental adjudication shall:

(1) conduct adjudicatory hearings required to implement:

(A) air pollution control laws (as defined in IC 13-11-2-6), water pollution control laws (as defined in IC 13-11-2-261), environmental management laws (as defined in IC 13-11-2-71), and IC 13-19; ~~and~~

(B) rules of:

- (i) the air pollution control board;
- (ii) the water pollution control board;
- (iii) the solid waste management board; and
- (iv) the financial assurance board; and

**(C) agency action of the department of environmental management; and**

(2) notify a board referred to in subdivision (1)(B) of a final order

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of the office of environmental adjudication that interprets:

(A) a rule of the board; or

(B) a statute under which a rule of the board is authorized.

SECTION 2. IC 4-21.5-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. An environmental law judge is the ultimate authority under this article for reviews of ~~decisions~~ **agency actions** of the ~~commissioner~~ **department** of environmental management, **actions of a board described in IC 13-14-9-1, and challenges to rulemaking actions by a board described in IC 13-14-9-1 made pursuant to IC 4-22-2-44 or IC 4-22-2-45.**

SECTION 3. IC 4-21.5-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) An environmental law judge hired after July 1, 1995, and the director must:

- (1) be attorneys admitted to the bar of Indiana;
- (2) have at least five (5) years of experience practicing administrative or environmental law in Indiana;
- (3) be independent of the department of environmental management; and
- (4) be subject to all provisions applicable to an administrative law judge under this article.

(b) The director or an environmental law judge may be removed for cause under:

- (1) this article;
- (2) IC 4-15-2, **through application of the standards for removal for cause of a person in the state service (as defined in IC 4-15-2-3.8);** or
- (3) applicable provisions of the code of judicial conduct.

**(c) The director may appoint a special environmental law judge. The special environmental law judge must meet the requirements of subsection (a).**

SECTION 4. IC 14-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** The commission shall appoint administrative law judges. An administrative law judge:

- (1)** is subject to IC 4-15-2; **and**
- (2)** may be removed for cause under:
  - (A)** IC 4-21.5;
  - (B)** IC 4-15-2, **through application of the standards for removal for cause of a person in the state service (as defined in IC 4-15-2-3.8);** or
  - (C)** applicable provisions of the code of judicial conduct.

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(b) **The commission shall create a division of hearings. The division of hearings shall assist the commission in performing the functions of this section. The director of the division of hearings may appoint a special administrative law judge.**

(c) A person who is not appointed by:

(1) **the director of the division of hearings; or**

(2) **the commission;**

may not act as an administrative law judge. ~~The commission may create a division of hearings to assist in performing the functions of this section.~~

SECTION 5. IC 25-17.6-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If requested, an administrative review of a determination made by the board under IC 25-17.6-3-7, IC 25-17.6-4, or IC 25-17.6-8-1 shall be conducted before an administrative law judge appointed by the natural resources commission **or the director of the division of hearings** under IC 14-10-2-2.

SECTION 6. IC 25-31.5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. If requested, an administrative review of a determination made by the board under IC 25-31.5-3, IC 25-31.5-4, or IC 25-31.5-8 shall be conducted before an administrative law judge appointed by the natural resources commission **or the director of the division of hearings** under IC 14-10-2-2.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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